

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BRUCE BIRCH,

Plaintiff,

v.

WILLIAM GITTERE, *et. al.*,

Defendants.

Case No. 3:19-cv-00643-MMD-WGC

ORDER

On October 21, 2019, Plaintiff Bruce Birch, then an inmate in the custody of the Nevada Department of Corrections, initiated this prisoner civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 1-1.) On January 12, 2021, Defendants filed a suggestion of death on the record. (ECF No. 43.) On January 13, 2021, pursuant to Federal Rule of Civil Procedure 25(a)(1), the Court directed any party or the decedent's successor or representative to file a motion for substitution within 90 days after service of a statement noting death. (ECF No. 44.) That deadline has now expired, and no party has filed a motion for substitution.

Under Federal Rule of Civil Procedure 25(a)(1), "[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed." Fed. R. Civ. P. 25(a)(1).

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1 It is therefore ordered that this action is dismissed with prejudice because no
2 motion for substitution was made in accordance with the Court's order.

3 The Clerk of Court is directed to enter judgment accordingly and close this case.

4 DATED THIS 14th Day of April 2021.

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MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE